

# SENATE BILL 634

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2lr2580  
CF HB 841

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By: **Senators Frosh, Astle, Colburn, Garagiola, Klausmeier, Manno, Mathias, Middleton, Pipkin, Pugh, and Raskin**

Introduced and read first time: February 3, 2012

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Food Service Facilities – Open Windows and Doors – ~~Regulations~~**

3 FOR the purpose of ~~requiring the Department of Health and Mental Hygiene, on or~~  
4 ~~before a certain date, to adopt certain regulations that allow a food service~~  
5 ~~facility to operate with the outer windows or outer doors of the facility open if a~~  
6 ~~certain determination is made by a certain local health department;~~ authorizing  
7 a food service facility to operate with the outer doors or outer windows of the  
8 facility open unless the local health department finds evidence of certain vermin  
9 or flying insects while the facility is operating with the outer doors or outer  
10 windows open; requiring a food service facility to take certain actions under  
11 certain circumstances; authorizing a local health department to take certain  
12 actions under certain circumstances; providing for the application of this Act;  
13 and generally relating to ~~regulations for~~ open windows and doors at food service  
14 facilities.

15 BY adding to

16 Article – Health – General

17 Section 21–324.1

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2011 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## 1 Article – Health – General

## 2 21-324.1.

3 ~~ON OR BEFORE JANUARY 1, 2013, THE DEPARTMENT SHALL ADOPT~~  
4 ~~REGULATIONS THAT ALLOW FOOD SERVICE FACILITIES TO OPERATE WITH THE~~  
5 ~~OUTER WINDOWS OR OUTER DOORS OF THE FACILITY OPEN FOR VENTILATION~~  
6 ~~IF THE LOCAL HEALTH DEPARTMENT DETERMINES THAT THERE IS NO~~  
7 ~~EVIDENCE OF INFESTATION BY FLYING INSECTS OR OTHER VERMIN THAT~~  
8 ~~COULD CREATE A THREAT TO THE PUBLIC HEALTH AT THE FACILITY.~~

9 (A) THIS SECTION DOES NOT APPLY TO AN OUTER DOOR OF A FOOD  
10 SERVICE FACILITY THAT LEADS FROM THE KITCHEN TO THE OUTSIDE.

11 (B) A FOOD SERVICE FACILITY MAY OPERATE WITH THE OUTER  
12 WINDOWS OR OUTER DOORS OPEN UNLESS, WHILE THE FOOD SERVICE FACILITY  
13 IS OPERATING WITH THE OUTER DOORS OR OUTER WINDOWS OPEN, THE LOCAL  
14 HEALTH DEPARTMENT:

15 (1) FINDS EVIDENCE OF VERMIN IN FOOD PREPARATION OR  
16 FOOD STORAGE AREAS; OR

17 (2) FINDS EVIDENCE OF FLYING INSECTS IN FOOD PREPARATION  
18 OR FOOD STORAGE AREAS THAT POSE A SIGNIFICANT THREAT TO SANITATION  
19 OR PUBLIC HEALTH.

20 (C) IF A LOCAL HEALTH DEPARTMENT FINDS THAT A FOOD SERVICE  
21 FACILITY IS OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS SECTION,  
22 THE FOOD SERVICE FACILITY SHALL TAKE IMMEDIATE ACTION TO ELIMINATE  
23 THE VERMIN OR FLYING INSECTS.

24 (D) A LOCAL HEALTH DEPARTMENT MAY CLOSE A FOOD SERVICE  
25 FACILITY FOUND TO BE OPERATING IN VIOLATION OF SUBSECTION (B) OF THIS  
26 SECTION, OR ORDER A TEMPORARY CLOSURE OF THE OUTER WINDOWS AND  
27 OUTER DOORS AT THE FOOD SERVICE FACILITY, UNTIL THE VERMIN OR FLYING  
28 INSECTS ARE ELIMINATED FROM THE FOOD PREPARATION OR FOOD STORAGE  
29 AREAS, OR UNTIL ANOTHER ACTION APPROVED BY THE LOCAL HEALTH  
30 DEPARTMENT IS TAKEN.

31 (E) A FOOD SERVICE FACILITY FOUND TO BE OPERATING IN VIOLATION  
32 OF SUBSECTION (B) OF THIS SECTION ON THREE OR MORE SEPARATE  
33 OCCASIONS SHALL KEEP THE OUTER WINDOWS AND OUTER DOORS CLOSED AT  
34 ALL TIMES UNTIL:

1                   **(1) MODIFICATIONS APPROVED BY THE LOCAL HEALTH**  
2 **DEPARTMENT ARE MADE TO THE FOOD SERVICE FACILITY TO EFFECTIVELY**  
3 **PROTECT AGAINST THE ENTRANCE OF VERMIN AND FLYING INSECTS; OR**

4                   **(2) ANOTHER ACTION APPROVED BY THE LOCAL HEALTH**  
5 **DEPARTMENT IS TAKEN.**

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 ~~October~~ July 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.